

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN GAY ANN MASOLO**, on March 12, 2001 at 3:05 P.M., in Room 137B Capitol.

ROLL CALL

Members Present:

Rep. Gay Ann Masolo, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Bob Lawson, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Norma Bixby (D)
Rep. Gary Branae (D)
Rep. Nancy Fritz (D)
Rep. Verdell Jackson (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Jeff Mangan (D)
Rep. Joe McKenney (R)
Rep. John Musgrove (D)
Rep. Alan Olson (R)
Rep. Ken Peterson (R)
Rep. Butch Waddill (R)
Rep. Allan Walters (R)
Rep. Merlin Wolery (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Nina Roatch, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 94, 3/1/2001; SB 117,
3/5/2001; SB 394, 3/1/2001
Executive Action: SB 111; SB 394; SB 94;
SB 344; SB 317

The Senate had not adjourned and **Bruce Dunkel** from **OPI** was available to hand out the report, WHO WILL TEACH MONTANA'S CHILDREN? for the Certification Standards and Practices Advisory Council (CSPAC) of the Montana Board of Public Education. He went over the report with the committee. **EXHIBIT (edh56a01)**

HEARING ON SB 94

Sponsor: SENATOR DEBBIE SHEA, SD 18, Butte

Proponents: J. D. Lynch, Butte School District
Loran Frazier, SAM
Lance Melton, MSBA
Erik Burke, MEA-MFT
Madalyn Quinlan, OPI

Opponents: None

Opening Statement by Sponsor:

SENATOR DEBBIE SHEA, SD 18, Butte, stated that the bill is a vehicle to afford school districts throughout Montana the opportunity to offer quality education to all students and be able to budget that education. Many school districts in the state are now facing declining enrollment. In larger communities the loss of more than one hundred students does not allow eliminating a classroom teacher or closing a school or certain programs that are a part of the school, because it is spread over an entire city. What it does do is it decreases ANB and severely deteriorates districts' space of funding. School districts across the state have found that to continue to struggle to benefit special needs of students, their general fund budget is being depleted. The bill will have an impact on the general fund. It will allow school districts a vehicle by which they raise needed money to better satisfy the needs of all children. The vehicle is a vote of the people. It establishes 175% as the maximum ratio of district special education allowable costs expenditures to state allowable costs payments. It is up from 153%. The amendment specifies that the maximum can further increase during the 2002 to 2003 school years for those districts with even greater disproportionate costs. No district can exceed the 200% ratio that had been originally contemplated. Districts with relatively low special education costs will not be authorized to exceed the 175% ratio. It ensures that only the districts that can demonstrate misappropriate special education costs be authorized to enhance their maximum budget levels. To meet them and have a local vote, the state will still need to approve any levy increases necessary to allow budget growth. State

appropriation for special education services covers only 50% of the amount that school districts are currently spending on it. This will help school districts by providing them some relief from their tight budgets. The state of Montana has long measured its equalization efforts according to what is know as The Federal Range Ration Method. This proposal complies with it and meets all the determinants of equalization. The decision will be held by the voters.

Proponents' Testimony:

Madalyn Quinlan, OPI, submitted written testimony.

EXHIBIT (edh56a02)

J.D. Lynch, Butte School District #1, said that the schools across Montana are well aware of the problems that the legislature is facing. The bill allows the local school districts to help themselves, if they so choose. The bill would improve education for all districts in Montana that are facing severe economic problems.

Lance Melton, MSBA, said they are in support of the bill. In 1993 when the legislature passed current law that says 140% is your base and 153% is your maximum on special education costs, there were \$12.5 million that was not being funded that school districts needed a vote to fund. Since then those costs have gone up \$17.5 million. The bill is very conservative. It doesn't cover the full range of increased costs in special education that have occurred since 1993. There is a strong argument that the amendment is necessary to maintain the structure of equalization at present under **HB 667**. Federal law mandates that the state supply this education. The costs will come whether this bill passes or not. That means they will come out of the general fund at the detriment of others in the educational system that are not special needs and this bill gives the local voters the right to say whether or not there should be an increased authority in order to provide for those costs or that those costs should be covered out of the existing educational program from other areas of spending.

Erik Burke, MEA-MFT, stated the bill has a lot of logic behind it and is something that the committee should support. The actual expenditures that districts are making is 188% of the special educational allowable costs provided by the state. At present the maximum remains at 153%. Special education has continued to be a cost that continues to rise for districts. It is limiting the amount of dollars that districts can spend on curriculum and services provided by teachers. The bill is a self-defense mechanism.

Loran Frazier, SAM, said the bill was one of the resolutions his organization had at their delegate assembly this past year. It is a good bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REPRESENTATIVE HAL JACOBSON had a question for **Madalyn Quinlan**. He asked her to explain how the funding mechanism works in the budget. **Ms. Quinlan** said at present, when the district puts together its maximum general fund budget, they look at the basic entitlement for the district and the current ANB entitlement. They then look at their state special education payment, which is about \$33 million statewide. Currently they are able to add another 53% on top of that, in order to meet the local match requirements. A district needs to match \$1 of local money for every \$3 of special education expenditures that are paid for from the state. Fifty-three percent is adequate to fund the local match requirements, but over time as the state increases what the state has not provided significant increases in special education the local contributions have had to rise considerably.

REPRESENTATIVE JEFF MANGAN asked the **SPONSOR** what the reasons were for the Senate Education Committee's changes to her bill. The **SPONSOR** deferred to **Mr. Burke**. He said the Senate committee took a look at the bill and several members expressed concerns about the impact upon equalization. There are those in the education community that believe it is a matter of interpretation of whether this impacts equalization or not. At the request of the Senators, the education community looked at the bill to ensure that those districts that do not have disproportionate special education costs couldn't raise their budgets.

REPRESENTATIVE LARRY LEHMAN asked **Madalyn Quinlan** if she could give him at least two reasons for the increased funding of special education over the past 15 years. **Ms. Quinlan** said she would like to give him more information than she can off the top of her head. The greatest rise in costs is probably due to some of the technology available for special education students. There are more services available to buy for children. There is also earlier identification of needs. The fastest growing category is the emotionally disturbed students. Those students have a high need for services.

REPRESENTATIVE LAWSON had a question for **Ms. Quinlan**. Is there any significance in the fact the bill says "to 175%" and not "up to 175%?" **Ms. Quinlan** said she believes there are about five school districts that have not taken the "up to 153%." Three of

those districts don't have a special education program. The other two have just chosen to do a lesser amount. It isn't going to be a significant change to take out the "up to."

REPRESENTATIVE JEFF MANGAN asked **Ms. Quinlan** if the amendment changed from 200% to 175% for the first year, and for the second year it gave an option up of to 175% or up to 200% for those additional districts, why didn't the Senate give the second numbers to schools for the first year. **Ms. Quinlan** said OPI requested, because they have to retool their financial reporting system, that they couldn't respond that fast in terms of getting information out to school districts as to what their new maximum budget would be if they could use 175% or their own limit.

Closing by Sponsor:

SENATOR SHEA said a lot of larger schools have many special needs students because of group homes and other services that must be met. She is hoping that as a community of legislators they can work to help one another on the serious issues in the bill. She asked **REPRESENTATIVE ALAN OLSON** to carry it on the floor.

HEARING ON SB 117

Sponsor: **SENATOR JOHN TESTER, SD 45, Big Sandy**

Proponents: **Lance Melton, MSBA**
Loran Frazier, SAM
Dave Puyear, MREA
Erik Burke, MEA-MFT
Madalyn Quinlan, OPI

Opponents: None

Opening Statement by Sponsor:

SENATOR JOHN TESTER, SD 45, Big Sandy, said the membership in the Montana School Board Association, over 350 school districts over the state, support the return of permissive levy authority for their transportation fund, bus depreciation fund, and the adult education fund. **SB 184** was passed in the 1999 legislative session. These three school district levies that had been permissive, became voted levies. If voters turned down the board's request to raise the three funds, the board is forced to supplement the budget with general fund dollars. They are already stretched. There are built-in controls accountability for school districts on each of these bonded levies. The county superintendent oversees the obligation of school districts to

provide transportation for the students. Transportation levies, when needed, tend to be in modest amounts. The bus depreciation fund has a limitation built into it and it reads, "School trustees may include in the district budget, in accordance with school budgeting provision of this title, an amount each year that does not exceed 20% of the original cost of a bus or a two-way radio." The adult education fund has a levy limitation of not more than 1.1 mills. Given the accountability of these funds, he believes that the state should let locally elected trustees make the decision on whether additional funds are needed at the local level. They should be permissive.

Proponents' Testimony:

Lance Melton, MSBA, stated they strongly support the bill. Transportation is mandated by the state so a district must have the ability to pay for it.

Madalyn Quinlan, OPI, said her office supports the bill. The three funds being talked about constitute 10% of the total taxes that are levied per school. The state has control over the other 90% of the taxes levied.

Erik Burke, MEA-MFT, said the language needed to be corrected.

Loran Frazier, SAM, MREA, said it would take a lot of PR for boards to work with their communities if the bill is not passed. The community would not understand why they are voting on an issue that they have not had to vote on in the past.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REPRESENTATIVE VERDELL JACKSON had a question for the **SPONSOR**. He wanted to know more about the adult education part of the bill. The **SPONSOR** deferred to **Mr. Melton**. There is a separate provision in the law that limited the adult education levy at one mill. The reason the bill increase it to 1.1 is that when **SB 184** reduced various taxes throughout the state, the value of that mill decreased and OPI has looked at it on a statewide basis and come to the conclusion that 1.1 mills would cover the dollars that one mill covered before **SB 184** passed. That is a separate limitation. Historically it hasn't been a large fund.

REPRESENTATIVE BOB LAWSON asked **Ms. Quinlan** what the difference is between all school district levies and school district transportation fund, adult education fund, and bus depreciation reserve fund. What has been added when that language has been

changed? **Ms. Quinlan** said that the substance of the bill has not been changed. There are nine budgeted funds that the general fund requires being voted on. The transportation fund is included in this bill, the retirement fund is a county levy, bus depreciation is included in this bill, tuition was already a permissive levy and will continue to be so, adult education is covered in this bill, non-operating permissive levies for those school districts that have closed their schools, and the debt service and building reserve funds are the voted levies.

REPRESENTATIVE LAWSON said that his perception when he looks at the title, is that everything is blown out of the water. The wording, "all school district levies," bothers him. Is there is chance of mis-perception that the legislature is doing away with all voting on all school district levies? **Ms. Quinlan** said, what this says is that no school levies are subject to the provision of 15-10-420, which is **SB 184** voting requirements. If a person goes to title 20, the school section of law, one will find the voting requirements for the general fund, and all other funds. Other sections of law state the voting requirements.

Closing by Sponsor:

SENATOR JOHN TESTER said the bill is for a local issue and the school boards on the local level are responsible for these decisions.

HEARING ON SB 394

Sponsor: **SENATOR DEBBIE SHEA, SD 18, Butte**

Proponents: **J.D. Lynch, Butte School District #1**
Erik Burke, MEA-MFT
Madalyn Quinlan, OPI
Lance Melton, MSBA

Opponents: None

Opening Statement by Sponsor:

SENATOR DEBBIE SHEA, SD 18, Butte, stated that **SB 394** addresses matters that the legislature has been plagued with for a long time. They are constantly hearing from school districts about the need for more funding. They have all been made aware that part of this need is due to declining enrollment, ANB is down, and part of that declining enrollment is young kids that are falling through the cracks and dropping out because there isn't a structured alternative environment available for them. The bill forms a partnership through an inter-local cooperative agreement between an accredited Montana Job Corps (all three of Montana's

are accredited) and a Montana school district. Through the agreement school districts will keep their ANB. The heart of the bill is in Section 1, Sub-section 1. If a student is dropping through the cracks, his school district may want to form a partnership with one of the Job Corps in the state. Under the agreement the school district will work in cooperation with the Job Corps and will keep the student's ANB. The Job Corps gets no money for this service. They are in the business of getting kids that are challenged in many ways off to a wonderful start in life. The cooperative agreement will ensure that the student is meeting the requirements of the local district and have the assurance that the student will be in a study mode suited to his or her needs. When they finish school, they will have a skill. She said there is a new fiscal note coming to the committee. They have taken a look at the fiscal note and it will say \$69,290. The third assumption will say, "It is assumed that one quarter of these students will attend the Job Corps centers in the fiscal year 2002. Three Montana Job Corps facilities in Montana are accredited by North Western Association of the Schools and Colleges. These facilities serve approximately 90 students annually who are under the age of 19. It is assumed that one quarter of these students will attend the Job Corps centers under an inter-local agreement with the public schools in Montana. It is assumed that without the passage of **SB 394**, these students would not be enrolled in an accredited public school program. These students will generate 23 ANB for the high schools that establish inter-local agreements with the Job Corps facilities." The bill is a gift to schools in the state that do not have an alternative program.

Proponents' Testimony:

Jim Keeney, Deputy Center Director at the Track Creek Job Corps in Darby, stated that at present the Montana Job Corps have 684 slots for students. Of the 684, at the present time 228 come from the state of Montana. At his center the balance come from 13 different states. His center runs 30% Montana students. Job Corps is a very neat program. A Job Corps wants to be able to train and place in jobs more Montana youths. All the centers are currently full. The bill will help formalize the relationship and the school district throughout the state. There is a strong possibility that with the bill they can get young people enrolled before they fall into the juvenile justice system. They are a residential program. Students stay with them an average of eight months. While they are in the facility, they are paid a living allowance. They receive medical and dental care, mental health and drug alcohol counseling is available, as well as food, housing, and recreational opportunities for them. When they have completed their program, the facility provides placement

services. The facility is measured by how well they place the person in a job and how well the person keeps the job. They give them a transitional allowance. A graduate can receive up to \$1,200 to help the him get started. The student may have to relocate.

REPRESENTATIVE RICK LAIBLE, HD 59, stated that he has the Trapper Creek Job Corps in his district and he has been there many times. He is always amazed and pleased to see what the government dollars are doing. The facility saves kids, and he knows they can't save them all. They are provided an opportunity and a second chance for them to succeed in life. The bill gives young people who do not want to be a doctor or a lawyer an opportunity to succeed in a hands-on learning program. The local school gets the ANB, as if the student was there, and a young person may be saved.

REPRESENTATIVE JIM KEANNE, HD 36, said he works at the Anaconda Job Corps. He works in the vocational area. If a student arrives without a GED, he spends one week in the education area and one week in the vocational department. A student is given an opportunity to get away from their environment because it is a resident program. The student picks the trade he wants. Students are not restricted to Anaconda. Their projects take them many miles away.

Bill Case, Director at the Anaconda Job Corps Center, said when the center receives the student's application, particularly when they are 16 and 17 years of age, the application will say, "Got too far behind, couldn't catch up." The person knows he tried in the public school system and couldn't make it. The center has worked with Montana students for 35 years. This legislation gives teachers and counselors the opportunity to join hands with the Job Corps centers and early on identify students in the public school system who may be at risk of failing. If a student is successful, he has the opportunity to go back home and graduate from the local school system.

Erik Burke, MEA-MFT, said they support the bill.

Madalyn Quinlan, OPI, said they support the bill. It gives schools another avenue for keeping students engaged in learning and life skills. She wished to address the fiscal note. The costs that are shown will only be incurred if students stay in school. That seems a small price to pay for keeping students in school. Fiscal notes don't tell both sides.

Lance Melton, MSBA, said they see the bill as a complement to

HB 32. They stand in strong support of any bill that improves graduation rates and reduces dropout rates.

{Tape : 1; Side : B}

REPRESENTATIVE JEFF MANGAN, HD 45, said he is member of the State Work Force Investment Board. He wanted to point out that one aspect about the bill is that it is statewide. Communities from around the state send youth to attend the Job Corps. Great Falls schools entered into an agreement with the center in Anaconda. If a student's credits can be counted toward graduation, he can go back to the high school and receive a diploma.

J.D. Lynch, School District #1, Butte, said he is a proponent.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REPRESENTATIVE KATHLEEN GALVIN-HALCRO directed a question of **Mr. Case.** Do the students receive a GED or do they receive a high school diploma from the high school that they had attended?

Mr. Case said they would receive a high school diploma from the high school they had attended, if they meet the requirements placed upon them by that high school. At each of the Job Corps centers, at present, a student can receive a GED. **REPRESENTATIVE GALVIN-HALCRO** said the law says a student only has to attend high school until the age of 16. If he drops out at the age of 16, and has time to reconsider what he has done, and he decides to go to Job Corp, would the ANB money go back to the school that the student had previously attended? How is it decided, if the student has dropped out, where the ANB money goes? **Mr. Case** said his best guess is that, if the student drops out of the school system and has been out for eight or nine months, the student would not be included in the former school's ANB money that has already been submitted for. If at some point in time, that student completes the Job Corps training and is a sophomore or junior and wants to go back to his public school, once he is back in the system he would be part of the school ANB again.

REPRESENTATIVE GALVIN-HALCRO asked the same question of the **SPONSOR** and she said he had answered the question correctly.

REPRESENTATIVE GALVIN-HALCRO had another question for the **SPONSOR.** Is there any way that the bill can be amended or should it be amended to include the students that go to Project Challenge in Dillon? The **SPONSOR** said, at this point, she does not think that would be a good idea. **Mr. Case** said there are students from the challenge program who, once they have completed that program, they enlist in the Job Corps program.

REPRESENTATIVE LEHMAN had a question for **Mr. Keeney**. Do some of the students, after their stay at the center, go back their high school of origin or do they stay at the corps until they graduate or dropout? **Mr. Keeney** said very few ever go back. Many state their intention of not going back. If a student graduates, he has a GED and a trade and is ready to go to work. If a student does what he is asked to do, he will have a high school diploma but it will not be from his home district. **Mr. Case** was asked to answer the question by the **SPONSOR**. **Mr. Case** said that some students do go back to their high school of origin, if they drop out of the Job Corps. It is a small minority of their students that do it. The bill opens a window for those students to go back to their high school. He cautioned the committee that the eight month participation in the job school varies from center to center. **REPRESENTATIVE LEHMAN** asked him, if all the Montana Job Corps centers are currently running at capacity, and the bill is passed into law, how would the centers determine which applicants to accept? Would the Montana applicants have priority over youth coming from other states? **Mr. Case** said that is a likely possibility, because in the Work Force Investment Act, it says the students who enter Job Corps, should enter a Job Corps center closest to their community.

REPRESENTATIVE JACOBSON had a question for **Ms. Quinlan**. He asked her how the bill impacts ANB numbers? In the example of students at the Job Corps receiving their high school diploma from Darby, do they impact the ANB from Darby? **Ms. Quinlan** said, no, that is not the way it will work. It is the school district of residence where the student is enrolled before he goes to the Job Corp that will receive ANB, if the student decides for an alternate education.

REPRESENTATIVE JACKSON asked **Mr. Case** if it is a voluntary program and when the student signs up with the Job Corps, isn't he part of that program and not his high school. **Mr. Case** said there is no requirement that a student has to sign up for a Job Corps program. There is a misconception that judges can send kids to the job corps. It is a 100% volunteer program. If a student in a school district is interested in the Job Corps program because of the vocational educational opportunities, he would meet with an admissions counselor and the counselor would determine the eligibility of the student. If the student is eligible and wished to sign up, he could come into the program. Some students might find the campus too highly structured and decide not to apply. **REPRESENTATIVE JACKSON** asked, in the case where a student comes to the Job Corps, and it is in the middle

of the school year, wouldn't it be hard for the student to return to the school of origin? Wouldn't he have to wait until school starts again? **Mr. Case** said all of this is new and details will have to be worked out. At present, they have a hope and a dream in their head that they want to achieve. They operate a 7 days a week and 12 months a year. Students come to them every two weeks. A student can graduate at any point in the program that they have successfully completed.

Closing by Sponsor:

SENATOR SHEA said the school district the student is coming out of, has to make the determination that the student is going to the Job Corps. It must come from the counseling department of the high school. A student does not make the decision on his own.

If the bill is passed, **REPRESENTATIVE LAIBLE** will carry it on the floor.

EXECUTIVE ACTION ON SB 111

Motion: REP. OLSON moved that SB 111 BE CONCURRED IN.

Discussion:

The **CHAIR** reminded the committee that **SENATOR ELLIS** had given them an amendment in the hearing of the bill. It was an exhibit in the hearing of the bill.

Motion: REP. LAWSON moved that ELLIS AMENDMENT, DATED MARCH 5, 2001 TO SB 111. BE ADOPTED.

Discussion:

REPRESENTATIVE BOB LAWSON asked **Connie Erickson** to explain the amendment. **Connie Erickson** said the amendment strikes the part of the bill that had to do with taxable value, saying that the transfer of the territory would not reduce the taxable value of the district from which the territory is to be transferred by 25% or more. It is language put in by the Senate and now **SENATOR ELLIS** wants it out of the bill.

REPRESENTATIVE LEHMAN had a question for **Connie Erickson**. There is no limit in terms of a percentage of the taxable value? She said, if the amendment is passed, there will be mention of limitation as far as a decrease in taxable value. He asked if currently in the bill it is 25%. **Connie Erickson** said in the

bill it is 25% or more, but current law doesn't have a percentage but has a dollar value.

REPRESENTATIVE JACKSON wanted to know if this would exasperate the problem? His perception of the problem is not that the kid wants to change schools, but the financial impact on the losing district. **SENATOR ELLIS** said most of the change, as far as dollars are concerned, involves one school that might be spending it at 100% and the other at 80%. That is where the change is going to be. When the student changes schools, the ANB follows him, but assuming that the tax base has not followed him, then there is more GTB that goes to the school because it doesn't have the tax base. The district that retained the property has a higher tax base in relation to the number of students that are attending so the district gets less GTB. Once the property is moved too, then the GTB reduces in the receiving district and increases in the losing district because of the change in relationship of property to student.

REPRESENTATIVE OLSON also had a question for the bill **SPONSOR**. Are there any schools below the 80%? The **SPONSOR** said there can be no schools below the 80%. There are a number of schools at the base. **REPRESENTATIVE OLSON** said, if there are no schools below the 80%, if the taxable evaluation is blown out of the school district, that affects the voted levies between 80 and 100%, doesn't it? The **SPONSOR** said yes, but even more so is the difference in the level that the schools might be at.

REPRESENTATIVE OLSON said if we lose a million dollars in taxable evaluation out of the district in the transfer, the losing district, because it has less taxable evaluation, their mill levies will rise to make up the difference, creating a larger tax burden on those that are left. Is that correct? The **SPONSOR** said yes, if they are above the base. **REPRESENTATIVE OLSON** said that everyone is above the base. The **SPONSOR** said there are 97 schools that are at the base. There are more school districts at the base than there are at the max, but they are smaller school districts.

REPRESENTATIVE JOAN ANDERSEN had a question for the **SPONSOR**. If this situation happens, as the losing school district having to run a mill levy two years down the road, wouldn't it be true that those taxpayers in the school district that lost the property, would have a greater tax burden because they had lost the taxable evaluation? The **SPONSOR** said that as a result of **SB 460** from last session where a district that has to vote for greater taxes, that what she is saying is possible. He said they should remember the county superintendent of schools has to take economic differences into consideration when she is evaluating. In the case of Power and Vaughn there were three superintendents

because it is across county lines. Before, they had wide discretion and that is why the bill got in trouble in court.

REPRESENTATIVE GALVIN-HALCRO asked the **SPONSOR** if the school district losing property would have the opportunity to take the mill levy vote to the people this coming year. The **SPONSOR** said the process doesn't happen immediately. The superintendent cannot approve property transfer until after the current budget period which would be after July 1. **REPRESENTATIVE GALVIN-HALCRO** said it could still occur before the next school year. The **SPONSOR** said the superintendent could vote, but it could not happen until the next school year. **REPRESENTATIVE GALVIN-HALCRO** ask him if the losing school would still be losing the money from the territory that would be transferred. The **SPONSOR** said conceivably.

REPRESENTATIVE LEHMAN said that it is in current law that there is a window for transfer of territory so that it can't affect a budget year. **Ms. Quinlan** said he is correct.

REPRESENTATIVE GALVIN-HALCRO asked **Ms. Quinlan** if she is saying that the bill could not affect the next school year starting in August or September of 2001. **Ms. Quinlan** said she believes property cannot be moved between July 1, and until after the budget is adopted. If something happened before July 1, that would be a possibility. **REPRESENTATIVE GALVIN-HALCRO** said, if this bill passed and is signed in April, there is nothing stopping it from happening in May or June, is there? **Ms. Quinlan** said it could happen as long as all the other requirements in the bill were met.

The question was called for on the amendment.

Vote: Motion **ELLIS AMENDMENTS TO SB 111** carried 12-6 with Bixby, Branae, Fritz, Galvin-Halcro, Jacobson, and Mangan voting no.

Motion: **REP. LAWSON** moved that **SB 111 BE CONCURRED IN AS AMENDED.**

Discussion:

REPRESENTATIVE PETERSON said he had copied the decision by the Supreme Court that decided that the last bill was unconstitutional. In Justice Nelson's opinion, when analysing subsection 6 of 20-6-302, which was the section they found unconstitutional, he thought it could be cleaned up and it would be okay. Justice Nelson gave examples that need to be considered; the effect of the transfer falling of taxable valuation, on fiscal stability and bonding capacity, on student

transportation, on plant capacity, on class size, on student and teacher staff morale, on sports and extracurricular activities, on local control, on racial, cultural, social, economic and demographic diversity, on district geography and communities and infrastructure of the transferring and receiving districts. He went on to say that the superintendent could consider other effects or some of the above. He notices in the bill there are about three of the criteria. He assumes that whoever drafted the bill considered the criteria he has listed, and believes the bill is constitutional as written. The Court went on the say, "Moreover, the statute fails to provide any legislative direction as to how substantively the county superintendent is to evaluate the types of effects that transfer might implicate." That is his problem with the bill. After the court makes these finding, there is nothing in the bill that allows the superintendents to evaluate those and make a decision. He believes the legislature has some responsibility to tell the administrative board that one has to find certain things in order to approve the transfer. That is one of the things that was wrong with the statute before, but he isn't sure that this bill corrects the problem. The **SPONSOR** said when the bill was being written, the authors felt that the more criteria put in the bill, should a superintendent not document a reason, her ruling one way on each one of them, it would jeopardize the law, or at least her decision; so they tried to catagorize the things Judge Nelson listed under a minimal number of headings. The section that says it must consider three things, it says "a minimum" of three things. It doesn't limit what is to be considered. He supposes that if a superintendent failed to look at an important consideration, that would be due to the parties in the hearing and not the law. He assumes it is the responsibility of the school board that doesn't want to lose the property and the people who want to move, to present all of their concerns in the first hearing. The judge can only review what went on at the hearing. **REPRESENTATIVE PETERSON** said he understands what he has said, but what he is concerned about is after they determine what the effects are on each district, then there is no criteria in the bill that says, if superintendent determines that the economic interest is such-and-such on this district, then you can or cannot make a transfer. It is the same way with the effect on the students. There is nothing that tells that superintendent what results those findings are going to be. The **SPONSOR** agreed with him. He said you cannot foresee every hurdle that a school might have to address if this request. **REPRESENTATIVE PETERSON** asked him about what his understanding is that the attorney for Vaughn thinks it is unconstitutional. The **SPONSOR** said that is hard to assess. He wanted to limit the transfer to 10% of a school's property. That is the major difference between what he proposed and what is in the bill.

REPRESENTATIVE ANDERSEN said she had an amendment that she would like **Connie Erickson** to pass out.

Motion: REP. ANDERSEN moved that **ANDERSEN AMENDMENT TO SB 111 BE ADOPTED. EXHIBIT (edh56a03)**

Discussion:

The amendment removes the portion that says public land can be transferred. The reasoning behind it is that there are possibilities where if public lands were transferred it would make private lands contiguous to the new boundaries, which in turn eventually would put those lands in the position to request a transfer.

REPRESENTATIVE OLSON said the amendment would lead to a checkerboard effect on property ownership within the districts. PILT money from the federal money goes to the county where it originates in order to be distributed out to the various school districts. If there was cross-county jurisdiction on a school district, one county would be paying PILT money to another county that wouldn't normally receive it without this amendment.

REPRESENTATIVE LEHMAN said he agrees with **REPRESENTATIVE OLSON**. There would be a checkerboard effect and he believes government lands are considered as part of a school district. He believes this is an area where **REPRESENTATIVE ANDERSEN** may not want to go.

REPRESENTATIVE PETERSON thinks the amendment just applies to the condition of land being contiguous. If the land is contiguous to the district in which it is going to be transferred, it is government land and the transfer of land would take it with it.

REPRESENTATIVE ANDERSEN said that is not what she meant the amendment to do. In the bills it say, if a certain percentage of the land owners within a district want to have a land transfer, they can sign a petition and make the request. Who signs the petition for the federal lands in the transfer? It seems to her that the federal lands are going to be moved around because private land owners who have property in the same areas want to move. The government land in some cases, in a land transfer, make a new area of private land contiguous to the receiving district.

REPRESENTATIVE MANGAN called for the question to the **ANDERSEN AMENDMENT**.

Vote: Motion that **ANDERSEN AMENDMENT TO SB 111 BE ADOPTED failed with Andersen, Masolo, McKenney, and Olson voting aye.**

REPRESENTATIVE OLSON said he appreciates the **SPONSOR** for bringing the bill to the committee. This is something that has been going on in the state for years. The problem between Power and Vaughn has been going on for at least ten years. There are other potential areas in the state that will be affected by the bill. He is uncomfortable in passing the bill out of committee. He believes it needs a study resolution to get everyone involved to come up with a solution. He made a motion to table the bill.

The **CHAIR** said she felt there had not been enough discussion on the bill.

Connie Erickson said interim study resolutions can be requested up to about the 75th day. If the committee chooses to table the bill, and an individual on the committee would like to request a study resolution, he would still have time to make the request.

REPRESENTATIVE PETERSON said this is not a new concept. It is dealing with a statute that was declared unconstitutional by the Supreme Court because there wasn't sufficient criteria set down for the superintendent to make the decision. The intent in the bill, he's not sure it gets there, is to correct those deficiencies in the law and to allow the people to go ahead and apply for the transfer. If the bill doesn't go forward, what vehicle do these people have to consider the land transfer?

REPRESENTATIVE LEHMAN said what the committee is addressing is a situation that has been going on for a long time. In 1976 or 1978, valuation of the Neumann Bench was either 63% or 66% of the Vaughn Elementary School District. There were other laws in effect and there was also two separate counties involved. They went to district court and didn't make it through the system. It was probably a good thing because 66% of the taxable valuable of a district is a great deal of money. Now the Sun River Valley has grown up to a point where the taxable valuation of the Neumann Bench is 22% of the district. It has decrease 43% over a period of 22 years. That is approximately 2% a year. This is not a question about Power and Vaughn, he thinks as legislators their responsibility is to look at questions that come before them on a statewide basis. This bill is an attempt to address something the Supreme Court was not working properly at the time. If the bill does pass constitutional muster, what the committee has done is give local districts the opportunity to do whatever it is they want to do. There are not going to be any frivolous attempts to transfer territory from one school district to another.

REPRESENTATIVE MANGAN said **REPRESENTATIVE PETERSON** made some good points. He had also received the decision by the Supreme Court.

He is not sure the amendment put on the bill earlier is a good one. The testimony from Mr. Dahlem supports what **REPRESENTATIVE PETERSON** said in his questions to the **SPONSOR**.

{Tape : 2; Side : A}

Substitute Motion: REP. MANGAN made a substitute motion to **SEND SB 111 TO THE JUDICIARY COMMITTEE**.

Discussion:

REPRESENTATIVE MANGAN said that the Judiciary Committee has taken up a number of bills during the session regarding some constitutional issues. There are a number of attorneys on the committee who understand constitutionality.

REPRESENTATIVE OLSON said this is an education matter and it is a local control issue. It needs to be determined locally between elected officials.

REPRESENTATIVE BIXBY says she lives where two districts have problems similar to Power and Vaughn. They have been in litigation for some time. She is in favor of tabling the bill and having a study resolution, or sending it to the Judiciary Committee. Money spent needs to go to the children and not litigation. The bill is vague.

REPRESENTATIVE WOLERY said he feels the bill should be in judiciary.

REPRESENTATIVE PETERSON said he agrees with **REPRESENTATIVE OLSON**. The problem with transferring districts and doing all that is a school issue and that is a local issue. That is not the question. The statute was declared unconstitutional by the Supreme Court and it said the statute could be fixed. The place it is better fixed to make it constitutional is in the Judiciary Committee.

REPRESENTATIVE FRITZ asked **REPRESENTATIVE MANGAN** if he wanted it to go to the Judiciary Committee with the amendments. The amendments had been adopted.

REPRESENTATIVE LEHMAN said he was in favor of moving the bill to the Judiciary Committee. This legislature has to come out with a mandate as to how the process is going to be handled, because if the committee tables the bill, transfer of school territory is going to be in limbo for at least two years or until someone resurrects the process again.

Vote: Motion to RECOMMEND TO MOVE SB 111 TO THE JUDICIARY COMMITTEE DO PASS carried 12-6 with Bixby, Branae, Galvin-Halcro, Lawson, Masolo, and McKenney voting no.

EXECUTIVE ACTION ON SB 117

Motion: REP. GALVIN-HALCRO moved that SB 117 BE CONCURRED IN.

Discussion:

REPRESENTATIVE LEHMAN said he is concerned about the mandate that the law says the school district must provide transportation, but the way the law was passed in the last session, whether or not transportation is provided is up to the local voters. The bus depreciation reserve fund is one where the school district trustees can set a permissive levy of 20% a year without a vote of the constituents to set aside an amount to replace buses. It made it painless to replace buses. The price of buses has gone up tremendously.

Vote: Motion that SB 117 BE CONCURRED IN carried unanimously.

REPRESENTATIVE LEHMAN will carry the bill on the floor.

EXECUTIVE ACTION ON SB 394

Motion/Vote: REP. MANGAN moved that SB 394 BE CONCURRED IN. Motion carried 16-2 with Jackson and Walters voting no.

REPRESENTATIVE LAIBLE will carry the bill on the floor.

EXECUTIVE ACTION ON SB 94

Motion/Vote: REP. GALVIN-HALCRO moved that SB 94 BE CONCURRED IN. Motion carried 15-3 with Fritz, Jackson, and Walters voting no.

EXECUTIVE ACTION ON SB 344

Motion: REP. GALVIN-HALCRO moved that SB 344 BE CONCURRED IN.

Discussion:

REPRESENTATIVE LAWSON said it is the bill he asked the question of **SENATOR COBB** about the room and board in the bill. **Connie Erickson** said if a family lives in an isolated area in the state that makes it very difficult for them to go back and forth to school everyday, there is provision in law that says they can live in the community where the school is located. The students would probably have to live with someone in the town. If they do that, the students are eligible for room and board reimbursement. At present that reimbursement is \$8 a day for the first person eligible and then it is \$6 for each person eligible from the same family. In the bill, the per diem would be raised to \$9.25 and \$6. There aren't that many students that take advantage of the provision. There are some. The payment comes out of the transportation fund.

REPRESENTATIVE LEHMAN asked if anyone is using the provision. **Ms. Quinlan** said she doesn't know of anyone using it.

REPRESENTATIVE BIXBY said in her district there are students taking advantage of the provision.

REPRESENTATIVE LAWSON said he doesn't know where the bill came from or where the figures came from. **REPRESENTATIVE GALVIN-HALCRO** said it was the happy medium between **REPRESENTATIVE SMITH's** bill and several others that were out there to increase the mileage fee but not to the dramatic effect that **REPRESENTATIVE SMITH's** bill had it.

REPRESENTATIVE ANDERSEN said it shows a impact to the general fund of a \$57,000 per year increase. She wanted to know if that was general fund and not transportation funds. **REPRESENTATIVE MANGAN** said there is an affect on county or local government revenues, so counties statewide will pay an additional \$57,000 each year to match the state's share. It is an unfunded mandate. **REPRESENTATIVE ANDERSEN** asked where the county money would come from. The **CHAIR** said it tells on the back of the bill it will come out of the county transportation fund. **Ms. Quinlan** said the room and board would be a 50-50 split between county and state. The county money comes from county transportation money.

REPRESENTATIVE PETERSON asked if the bill is an unfunded mandate. **Connie Erickson** said it is not because it is a permissive levy.

REPRESENTATIVE LEHMAN said it is a program that a school district provides. Individual transportation pays a parent 21.5 cents or this bill will increase it to 25 cents a mile to drive the child

to school if a bus is not run to them. Representatives receive 35 cents a mile to to travel. He feels this a bill that needs to be passed.

REPRESENTATIVE WOLERY said he agrees with **REPRESENTATIVE LEHMAN** and called for the question.

Vote: Motion that **SB 344 BE CONCURRED IN** carried 12-6 with **Jackson, Lawson, Mangan, Masolo, Olson, and Walters** voting no.

ADJOURNMENT

Adjournment: 5:40 P.M.

REP. GAY ANN MASOLO, Chairman

NINA ROATCH, Secretary

GM/NR

EXHIBIT (edh56aad)